IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

WP(C).No. 25996 of 2003(T)

PETITIONER:

VESU, W/O. THANKAPPAN, SWASTHOM,
RESIDING AT CHERANADU, ERIMAYUR AMSOM,
ALATHUR TALUK.

BY ADV. SRI.P.R.VENKETESH
SMT.ASHA CHACKO

RESPONDENTS:

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1. MADHAVAN, S/O. CHAMIYAR,
ARIYAKKODE, ERIMAYUR AMSOM,
NATHUR TALUK.

2. DEVI, D/O. MADHAVAN,
ARIYAKKODE, ERIMAYUR AMSOM,
NATHUR TALUK.

3. RAMAKRISHNAN, S/O. KRISHNAN,
ARIYAKKODE, ERIMAYUR AMSOM,
NATHUR TALUK.

BY ADV. SRI.MADHAVAN AND OTHERS(PARTIES)
SRI.JOHN JOSEPH(ROY)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF ASSIGNMENT DEED ISSUED TO THE PETR.

EXT.P2 TRUE COPY OF THE PATTA ISSUED TO THE PETITIONER DTD. 25.5.1983.

EXT.P3 TRUE COPY OF TAX RECEIPT ISSUED TO THE PETITIONER IN THE YEAR 16.2.1994.

EXT.P4 TRUE COPY OF THE COMMISSION APPLICATION FILED BY THE PETITIONER IN THE YEAR 16.2.1994.

EXT.P5 TRUE COPY OF COMMISSION REPORT FILED BY THE COMMR.DTD. 19.12.2002.

EXT.P6 TRUE COPY OF OBJECTION FILED BY THE PETITIONER.

EXT.P7 TRUE COPY OF ORDER DTD.9.7.2003 IN I.A.568/2003 IN O.S.NO.75/2002.

EXT.P8 TRUE COPY OF ORDER DTD.14.2.2003 IN I.A.85/2003.

TRUE COPY

P.A.TO JUDGE

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M.N. KRISHNAN, J.

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W.P.C. NO. 25996 OF 2003

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Dated this the 18th day of June, 2007.

J U D G M E N T

This writ petition is filed seeking to quash Ext.P8 order. It was an application filed by the plaintiff in a suit for permission to withdraw the suit with liberty to file a fresh suit. The Court did not entertain that application and dismissed the same. During the pendency of the writ petition here, though there was an order of stay granted by this Court, the trial court has dismissed the suit which is against the direction of this Court. On a perusal of the order I find that the learned Munsiff was justified in not granting the opportunity to withdraw the suit with permission to file a fresh suit. That does not indicate that he cannot have some remedy in the suit which is pending. Therefore, the writ petition is disposed of as follows:

(1) The Munsiff Court, Alathur is directed to restore the suit which was dismissed against the order of this Court

when there was a stay of the interim nature.

(2) The Munsiff may give an opportunity to the plaintiff to proceed with the suit in accordance with law and if he seeks for any relief by way of amendment or so, it may be considered by the Court in accordance with law after hearing the other side.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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